

DEPARTMENT OF JUSTICE

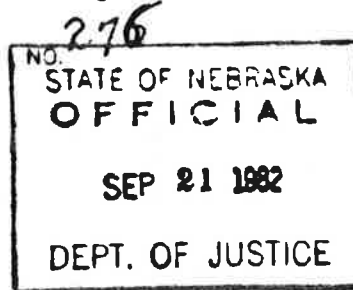
STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

September 17, 1982

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Attorney General  
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Senator Steve Fowler  
District No. 27  
State Capitol  
Lincoln, NE 68509



Re: Neb.Rev.Stat. §39-669.26(4)

Dear Senator Fowler:

You have requested an opinion from this office concerning the introduction of legislation to clarify Neb.Rev.Stat. §39-669.26(4) (Reissue 1978) which provides that:

In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violation as disclosed by the files of the Director of Motor Vehicles. The following point system shall be adopted:

. . . .

(4) Failure to stop and render aid as required under the laws of this state or any city or village ordinance in the event of a motor vehicle accident resulting in property damage if such accident is reported by the owner or operator within twelve hours from the time of the accident--4 points, otherwise--8 points, and for purposes of this subdivision a telephone call or other notification to the appropriate peace officers shall be deemed to be a report;

The question you have posed is whether or not an individual who is involved in a one-car accident should be assessed points against his driving record when there is no involvement by or damage to a second party. In particular, you have asked whether or not there should be a separation of offenses, namely, that of failing to report an accident and failure to stop and render aid. It would appear that the language of this particular section is vague and ambiguous in that "failure to stop and render aid" implies the existence of an injured party or



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parties to an accident. However, the statute as presently drafted refers only to "property damage" and makes no distinction as to those circumstances in which no second party is injured or damaged.

Neb.Rev.Stat. §60-505 (Reissue 1978) requires that an accident report be filed with the Department of Motor Vehicles regarding any "accident within this state, in which any person is killed or injured or in which damage to an apparent extent in excess of \$250 is sustained to the property of any one person, including such operator, . . ." Thus it is clear that an accident report is required for a one-car accident when the property damage exceeds \$250 despite the lack of involvement by or injury to a second party. Further, Neb.Rev.Stat. §60-506 provides that the failure to provide such a report or to correctly give the information required is a Class V Misdemeanor.

Neb.Rev.Stat. §39-6,104.01 imposes a duty upon an operator to stop and render aid upon involvement in any motor vehicle accident in this state. A violation thereof constitutes a Class I Misdemeanor pursuant to Neb.Rev.Stat. §39-6,104.03. To the extent that the Legislature has seen fit to distinguish between failure to report an accident and failure to stop and render aid, it would seem that a similar distinction should be made in the assessment of points against the driving record of an individual. It is the opinion of this office that corrective legislation would be appropriate to clarify the assessment of points between these two situations.

Very truly yours,

PAUL L. DOUGLAS  
Attorney General

  
Ruth Anne E. Galter  
Assistant Attorney General

REG:kkh

cc: Patrick O'Donnell  
Clerk of the Legislature